

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MICHAEL DEMERY,)	
)	
Plaintiff,)	
)	Case No.: 3:18-cv-01419
v.)	
)	
ANDY TRAN and WEST)	State Court Cause No.: 18-L-0387
BELLEVILLE NAIL SPA,)	
)	
Defendants.)	JURY TRIAL DEMANDED

NOTICE OF REMOVAL

Come now defendants Andy Tran (“Tran”) and West Belleville Nail Spa (“Spa”), and hereby file this Notice of Removal of the above-captioned cause to the United States District Court for the Southern District of Illinois pursuant to 28 USC §§ 1332 and 1446, and for their grounds, respectfully state as follows:

1. On or about June 26, 2018, defendants were served with Summonses and a one-count Complaint filed in the Circuit Court of St. Clair County, Illinois, seeking damages for alleged personal injuries due to an infection arising out of a pedicure procedure. *See* Exhibit A.
2. This Court has subject matter jurisdiction over this case under 28 USC § 1332 in that:
 - (a) Plaintiff is and was a citizen and domiciliary of the State of Illinois at all relevant times.
 - (b) Defendant Tran is and was a citizen and domiciliary of the State of Missouri at all relevant times.
 - (c) Defendant Spa is an artificial entity in that it is not a corporation. “[W]hen an artificial entity is sued in its name, it takes the citizenship of each of its members,” meaning “its owners or the several persons composing such association.” *RTP LLC v. ORIX Real Estate Capital, Inc.*, 827 F.3d 689, 692 (7th Cir. 2016). Here, the owners or persons composing Spa are defendant Tran, Hung Nguyen, Ha Tran, Kenny Tran, and Ren Ho, all of whom are and were citizens and domiciliaries of the State of Missouri at all relevant times.

- (d) Therefore, complete diversity exists among the parties to this case.
- (e) The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, in that:
 - i. Plaintiff has expressly demanded \$135,000.00 to settle this case. *See* Exhibit B.
 - ii. The Complaint seeks damages for external and internal “severe and permanent injuries,” past and future lost time, past and future mental and physical anguish, past and future “large sums of money for medical care,” past and future lost income and lost earning capacity, and disability. *See* Ex. A, ¶ 7.
 - iii. Further, plaintiff’s attorney signed an Affidavit stating that the money damages sought in this case exceed \$50,000.00 (Ex. C, p. 2), and the Complaint demands judgment in excess of \$50,000.00. *See* Ex. A.
 - iv. Together, the settlement demand, Complaint allegations, attorney Affidavit, and prayer for relief make it plain that plaintiff intends to seek more than \$75,000 in this case.

3. Additionally, removal is proper pursuant to 28 U.S.C. § 1446 in that defendants have filed this Notice of Removal within thirty days after service of the Summons and Complaint, and defendants have filed a copy of the Notice with the Clerk of the State Court and given notice thereof to all adverse parties.

4. Defendants have attached hereto as Exhibit C a certified copy of the complete state court file maintained by the Circuit Court of St. Clair County, Illinois.

WHEREFORE, defendants Andy Tran and West Belleville Nail Spa pray that an Order be entered herein, causing cause No. 18-L-387 of the Circuit Court of St. Clair County, Illinois, to be removed to this Court for further proceedings, and that this Court take jurisdiction herein and make such further orders as may be proper under the circumstances.

Respectfully submitted,

EVANS & DIXON, L.L.C.

/s/ David C. Berwin
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was filed electronically with the Court's electronic filing system, which will serve all counsel of record this 20th day of July, 2018.

/s/ David C. Berwin

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